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PTO/SB/84 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

2000P07978US01

First named inventor: HUBER

Application No.: 09/970,619

Art Unit: 2193

Filed: October 4, 2001

Examiner: Kang, Insun

Title: Manufacturing System Software Version Management

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1500 (37 CFR 1.17(m)). The Commissioner is authorized to charge any fees or credit any overpayment to Deposit Acc't No. 19-2179.

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of an Amendment (Identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

08/12/2005 TBESHAH1 00000024 192179 09970619

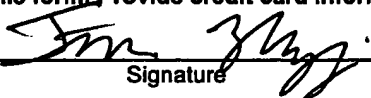
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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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Frank J. Nuzzi Typed or printed name	42,944 Registration Number, if applicable
Customer No. 28524 Address	732.321.3002 Telephone Number
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Enclosures: ☐ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

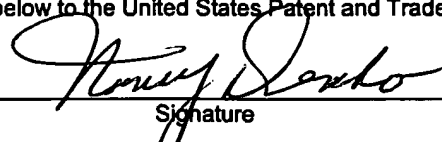
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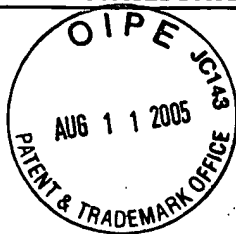
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OFFICE OF PETITIONS

NUP
In re Application of
Robert Huber
Application No. 09/970,619
Filed: 4 October 2001
Attorney Docket No. 2000 P 7978 US 01

RECEIVED
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AUG 02 2005

**DECISION
ON PETITION
37 CFR 1.137(b)**

This is a decision on the petition under 37 CFR 1.137(b), filed 2 May 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 6 October 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 7 January 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed, which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; the Commissioner may require additional information where there is a question whether the delay was unintentional.
- (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995. In addition, a terminal disclaimer and fee is also required for a utility or plant application filed on or after June 8, 1995 but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under secrecy order. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995 but before May 29, 2000, are eligible for patent term extension under former 35 U.S.C. 154(b) as a result of the Uruguay

Round Agreement. See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of the abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public.

The instant petition lack(s) item(s) (2) above, in that the petition fee as set forth in 37 CFR 1.17(m) has not been provided. While it is acknowledged that the form PTO/SB/64 indicates that the petition fee was enclosed, no fee was provided. Additionally, no authorization has been provided to charge the customer account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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By hand: Customer Window located at:

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ATTN: Office of Petitions

Any questions concerning this matter may be directed to Erik Kielin at (571) 272-6051 or, in his absence, to the undersigned at (703) 308-3865. *(not in service)*

Karen Cressy for
Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

23217



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: HUBER

Examiner: Kang, Insun

Application No.: 09/970,619

Group Art Unit: 2193

Filed: October 4, 2001

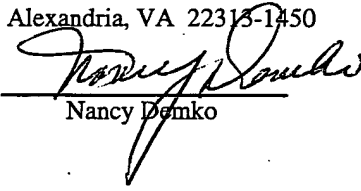
Docket: 2000P7978US01

For: Manufacturing System Software Version Management

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Nancy Demko

AMENDMENT

Sir:

This Amendment is filed concurrently with a "Petition for Revival of an Application for Patent Abandoned Unintentionally". In response to the Official Action dated October 6, 2004, please amend this application as follows:

IN THE CLAIMS:

1. (Currently Amended) In a computer-operated system for programming a manufacturing system, wherein a version of a program is downloaded to the manufacturing system and is associated with a version designator, a method for managing revisions to versions of the program, the method comprising the steps of:

running the program on the manufacturing system, the program including subsets organized with respect to one another in a hierarchical fashion, the subsets comprising a top-level subset and a plurality of lower-level subsets related hierarchically to the top-level subsets and to each other, each of the subsets identifying a main object and a sub-object, a version designator being associated with each of the subsets, each version designator including a first version identifier associated with the main object and a second version identifier associated the sub-object; and

if the program, when run on the manufacturing system, performs according to a preselected criterion, revising the first version designator identifier of a certain lower-level subset when the certain lower-level subset is modified for the program; and

if the modification of the certain lower-level subset affects other subsets, revising the second version identifier of the other affected subsets.

2. (Currently Amended) The method according to claim 1, wherein the version designator comprises along with the first and second version identifiers, a version label, ~~version identifier~~, and a status identifier.

3. Canceled

4. (Currently Amended) The method according to claim 1, wherein each of the first and second the-version identifiers comprises a number and the step of ~~designating a revised~~ revising the first and second version identifiers ~~designator for the program~~ comprises the step of incrementing the version identifier.

5. (Original) The method according to claim 2, wherein the status identifier comprises a validation indicator.

(Currently Amended) The method according to claim 5, wherein the manufacturing system comprises at least one line, ~~the preselected criterion comprises a check whether the program runs satisfactorily on the line, the method further including and wherein the step of designating a revised status identifier for the program comprises~~ activating the validation indicator after the program runs satisfactorily on the line.

6. (Original) The method according to claim 6, wherein the validation indicator is checked as a condition to running the program on the line without manual intervention.

7. (Original) The method according to claim 2, wherein the status identifier comprises a release indicator.

8. (Currently Amended) The method according to claim 8, wherein the manufacturing system comprises a plurality of lines, ~~the preselected criterion comprises a determination that the program runs satisfactorily on the lines, and the release indicator identifies the program as released for use on the plurality of lines~~ after the program runs satisfactorily on the lines.

9. (Original) The method according to claim 8, wherein the release indicator is checked as a condition to running the program on any lines of the manufacturing system without manual intervention.

10. (Original) The method according to claim 1, wherein the manufacturing system comprises an electronics assembly system.

11. (Currently Amended) A computer readable medium having a data structure stored thereon for use in identifying programs for computer-controlled manufacturing systems, wherein the programs comprise subsets organized with respect to one

another in a hierarchical fashion, the subsets comprising a top-level subset and a plurality of lower-level subsets related hierarchically to the top-level subsets and to each other, the data structure of the computer readable medium comprising:

- a first portion for indicating a revision to the top-level subset of a program; and
- a second portion for indicating a revision to any of the lower-level subsets of the program; and
- a label indicating a status of the programs.

12. (Currently Amended) The medium ~~computer data structure~~ according to claim 12, wherein either of the first and second portions comprise a numeral that is incremented to identify the revision, and wherein the label is a letter that identifies the status as one of released and validated.

13. (Currently Amended) The medium ~~computer data structure~~ according to claim 12, wherein the first and second portions are positioned adjacent one another.

14. (Currently Amended) The medium ~~computer data structure~~ according to claim 13, wherein the first and second portions are positioned on either side of a decimal point.

15. (Currently Amended) A method for completing a data structure, stored on a computer readable medium, for use in identifying programs for computer-controlled manufacturing systems, wherein the programs comprise subsets organized with respect to one another in a hierarchical fashion, the subsets comprising a top-level subset and a plurality of lower-level subsets related hierarchically to the top-level subsets and to each other, the method comprising the steps of:

- in a first portion of the data structure for indicating a revision to the top-level subset of a program, storing, on the computer readable medium, ~~inserting~~ a first symbol indicating that such a revision has been made; and

in a second portion of the data structure for indicating a revision to any of the plurality of lower-level subsets of the program, storing, on the computer readable medium, inserting a second symbol indicating that such a revision has been made, and in a third portion of the data structure for indicating a status of the program, storing, on the computer readable medium, a third symbol indicating the status to be one of released and validated.

16. (Currently Amended) The method according to claim 16, wherein the first portion comprises an identifier for the top-level subset, and the second portion comprises an identifier for any of the plurality of the lower-level subsets.

17. (Original) The method according to claim 16, wherein the top-level subset comprises a main object.

18. (Original) The method according to claim 18, wherein the main object comprises a representation of a circuit board.

19. (Original) The method according to claim 18, wherein the lower-level subsets comprise sub-objects relative to the main object.

20. (Original) The method according to claim 20, wherein the main object comprises a representation of a circuit board and the sub-objects comprise representations of components to be place on the circuit board.

21. (Currently Amended) A ~~computer-implemented~~ method for managing revisions to a program used in the control of a manufacturing system, the method comprising the steps of:

running the program on the manufacturing system,

indicating to a user identifying that a revision has been made to the program;

based on certain criteria, approving the revised program by the user, and

based on an authority level of the user, designating a status of the revised program as one of released and validated.

~~identifying whether the program, as revised, satisfies a preselected criterion;
if the program, as revised, satisfies the preselected criterion, automatically selecting a version designator according to a preselected scheme; and
automatically associating the selected version indicator with the program; and
code.~~

22. (Original) The method according to claim 22, wherein the manufacturing system comprises an electronics assembly system.

23. Canceled

24. Canceled

25. Canceled

26. Canceled

27. Canceled

REMARKS

Reconsideration and allowance are respectfully requested. Claims 1, 2, 4, 6, 9, 12, 13-17, and 22 have been amended. Claim 3 has been canceled and non-elected claims 24-28 have also been canceled. Claims 1, 2 and 4-23 are pending.

A Petition for Revival of an Application for Patent Abandoned Unintentionally is filed concurrently with this Amendment.

Claims 4, 17, and 22-23 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The claims have been carefully reviewed and revised bearing in mind the Examiner's rejection. All pending claims are considered to be in full compliance with 35 U.S.C. 112. Therefore, the rejection should be withdrawn.

Claims 12-23 stand rejected under 35 U.S.C. 101. Claims 12, 16 and 22 have been amended and are directed to statutory subject matter. Therefore, the rejection should be withdrawn.

Claims 1-10 and 22 stand rejected under 35 U.S.C. 102(e) as being anticipated by Donohue. Claims 1 and 2 have been amended to define the invention more clearly and thus, obviate the rejection. In particular, claim 1 as amended recites that the program includes subsets organized with respect to one another in a hierarchical fashion, the subsets comprising a top-level subset and a plurality of lower-level subsets related hierarchically to the top-level subsets and to each other, each of the subsets identifying a main object and a sub-object, a version designator being associated with each of the subsets, each version designator including a first version identifier associated with the main object and a second version identifier associated with the sub-object. The method of claim 1 recites revising the first version identifier of a certain lower-level subset when the certain lower-level subset is modified; and if the modification of the certain lower-level subset affects other subsets, revising the second version identifier of the other affected subsets.

Donohue does not teach or suggest the program including subsets comprising a top-level subset and a plurality of lower-level subsets related hierarchically to the top-level subsets and to each other. Donohue does not teach or suggest that each of the

subsets identifying a main object and a sub-object with a version designator being associated with each of the subsets and each version designator including a first version identifier associated with the main object and a second version identifier associated the sub-object. Finally, Donohue does not teach the steps of revising the first and second version identifiers as claimed. Donohue merely manages the distribution of different revisions of finished software programs that have no complex relation with each other. Therefore, the rejection of claim 1 and the claims that depend there-from should be withdrawn.

Claim 22 has been amended to recite the steps of running a program on the manufacturing system, indicating to a user that a revision has been made to the program; based on certain criteria, approving the revised program by the user, and based on an authority level of the user, designating a status of the revised program as released or validated. Donohue does not teach or suggest such method steps. In fact, there is no teaching in Donohue of designating a status of the revised program as released or validated by an authorized user. Therefore, the rejection should be withdrawn.

Claims 12-18 and 20 stand rejected under 35 U.S.C. 102(e) as being anticipated by Hopwood. Claims 12 and 16 have been amended to define the invention more clearly and thus, obviate the rejection. In particular, claim 12 as amended recites that the data structure of the computer readable medium includes a label indicating a status of the programs. Hopwood does not teach or suggest such a label. With regard to claim 16, the claim has been amended to recite storing, on the computer readable medium, a third symbol indicating the status of a program to be released or validated. Hopwood does not teach or suggest a third symbol indicating a status of a program. Therefore, the rejection of claims 12-18 and 20 should be withdrawn.

Claims 12-21 stand rejected under 35 U.S.C. 102(b) as being anticipated by Siemens (ICs for Communications). This rejection is respectfully traversed. The preambles of claims 12 and 16 as amended recite a computer readable medium having a data structure stored thereon for use in identifying programs for computer-controlled manufacturing systems. The programs comprise subsets organized with respect to one another in a hierarchical fashion, the subsets comprising a top-level subset and a

plurality of lower-level subsets related hierarchically to the top-level subsets and to each other. There is no teaching or suggestion in Siemens of data structure stored on computer readable medium or of programs comprising subsets organized with respect to one another in a hierarchical fashion, the subsets comprising a top-level subset and a plurality of lower-level subsets related hierarchically to the top-level subsets and to each other. The preamble limits the structure of claims 12 and 16 and cannot be ignored.

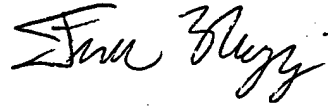
As specified in the MPEP §2111.02, Rev. 2, May 2004 at page 2100-50 to 2100-51: “Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation.” (Citing Corning Glass Works v. Sumitomo Elec. U.S.A., Inc., (See also MPEP §2111.02, Rev. 2, May 2004 at page 2100-51: “In claims directed to articles and apparatus, any phraseology in the preamble that limits the structure of that article or apparatus must be given weight” (citing In re Stencel, 828 F.2d 751, 4 USPQ2d 1071 (Fed. Cir. 1987))) (See also Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951)(preamble reciting “An abrasive article” deemed an essential limitation)).

Siemens merely notes revisions to “errata sheets”, not to a data structure stored on computer readable medium as claimed. Therefore, the rejection is improper and should be withdrawn.

Claims 11 and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Donohue in view of Applicant's Admitted Prior Art (AAPA). Claims 9 and 21 stand rejected as being unpatentable over Hopwood in view of AAPA. These claims depend ultimately from claims 1, 16 and 22, and are considered to be allowable for the reasons advanced above with regard to the independent claims, and for the additional reason that the added subject matter thereof is not taught or suggested by the prior art of record.

All objections and rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Frank J. Nuzzi".

Frank J. Nuzzi
Registration No. 42,944
Attorney for Applicant
Tel. No. (732) 321-3002

CUSTOMER NO. 28524